

House Daily Reader

Thursday, February 20, 2003

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State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

517I0506

SENATE EDUCATION COMMITTEE ENGROSSED NO. **HB 1068** - 02/13/2003

Introduced by: Representatives McCaulley, Begalka, Christensen, Deadrick (Thomas),
Garnos, Hennies, Koistinen, McCoy, Weems, Wick, and Williamson and
Senators Schoenbeck, Abdallah, Dempster, and Napoli

1 FOR AN ACT ENTITLED, An Act to permit home school students to participate in high school
2 interscholastic activities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-36-4 be amended to read as follows:

5 13-36-4. The school board of a public or the governing body of a nonpublic school, approved
6 and accredited by the secretary of the Department of Education and Cultural Affairs, may
7 delegate, on a year to year basis, the control, supervision, and regulation of any ~~and all~~ high
8 school interscholastic activities to any association which is voluntary and nonprofit; ~~provided that~~
9 if membership in such association is open to all high schools approved and accredited by the
10 secretary of the Department of Education and Cultural Affairs, including any school that allows
11 participation by students receiving alternative education as set forth in § 13-27-3, pursuant to
12 the provisions of this title, and ~~that~~ if the constitution, bylaws, and rules of the association are
13 subject to ratification by the school boards of the member public school districts and the
14 governing boards of the member nonpublic schools and include a provision for a proper review



1 procedure and review board.

2 Any association which complies with this section ~~is hereby authorized and empowered to~~
3 may exercise the control, supervision, and regulation of interscholastic activities, including
4 interscholastic athletic events of member schools. Such association ~~is hereby further authorized~~
5 ~~and empowered to~~ may promulgate reasonable uniform rules, to make decisions and to provide
6 and enforce reasonable penalties for the violation of such rules.

7 Section 2. That § 13-36-7 be amended to read as follows:

8 13-36-7. Any student enrolling in a South Dakota district pursuant to § 13-15-21 is eligible
9 to participate in any interscholastic activity sponsored by the South Dakota High School
10 Activities Association. If the school board or governing body of an accredited school approves,
11 a student receiving alternative instruction pursuant to § 13-27-3 is eligible to participate in any
12 interscholastic activity sponsored by the South Dakota High School Activities Association.
13 Nothing in this section confers any vested right in any student wishing to participate in any
14 interscholastic activity to be selected for competition in such activity. However, any accredited
15 school student who leaves an accredited program during the course of the school year for any
16 reason and enters an alternative education program is ineligible for participation in interscholastic
17 activities for one year beginning on the date in which the student enters the alternative program.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

742I0550

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1117** - 02/12/2003

Introduced by: Representatives Michels, Adelstein, Cradduck, Cutler, Gillespie, Hunhoff, Kraus, LaRue, Madsen, Murschel, O'Brien, Olson (Mel), and Schafer and Senators Schoenbeck, Albers, de Hueck, Knudson, McCracken, Moore, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the enforcement of foreign domestic violence
2 protection orders.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any domestic violence protection order issued by a court of competent jurisdiction of
7 another state, Indian tribe, the District of Columbia, or a commonwealth, territory, or possession
8 of the United States is enforceable as if the order was issued by a court in this state if all of the
9 following requirements are satisfied:

- 10 (1) The respondent received notice of the order in compliance with requirements of the
11 issuing jurisdiction;
- 12 (2) The order is in effect in the issuing jurisdiction;
- 13 (3) The issuing court had jurisdiction over the parties and the subject matter;
- 14 (4) The respondent was afforded reasonable notice and opportunity to be heard sufficient



1 to protect that person's right to due process. In the case of ex parte orders, notice and
2 opportunity to be heard must have been provided within the time required by the law
3 of the issuing jurisdiction; and, in any event, within a reasonable time after the order
4 was issued, sufficient to protect the respondent's due process rights;

5 (5) If the order also provides protection for the respondent, a petition, application, or
6 other written pleading was filed with the issuing court seeking such an order and the
7 issuing court made specific findings that the respondent was entitled to the order; and

8 (6) The prohibited conduct violative of the foreign protection order could be prohibited
9 by a protection order if issued in this state.

10 Any protection order meeting the requirements of this section is a foreign domestic violence
11 protection order.

12 Section 2. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Any person entitled to protection under a foreign domestic violence protection order may
15 file the foreign order in the office of any clerk of a circuit court in this state. The person filing
16 the foreign order shall also file with the clerk of a circuit court an affidavit certifying the validity
17 and status of the order and attesting to the person's belief that the order has not been amended,
18 rescinded, or superseded by any orders from a court of competent jurisdiction. If a foreign order
19 is filed under this section, the clerk of a circuit court shall enter the order in the law enforcement
20 protection order database. Filing of a foreign order under this section is not a prerequisite to the
21 order's enforcement in this state. No fee may be assessed for filing the foreign order.

22 Section 3. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 A law enforcement officer may rely upon any foreign domestic violence protection order that

1 has been provided to the officer by any source. The officer may make an arrest pursuant to § 25-
2 10-13 for any violation of the foreign order in the same manner as for violation of a protection
3 order issued in this state. A law enforcement officer may rely on the statement of the person
4 protected by the foreign order that the order is in effect and that the respondent was personally
5 served with a copy of the order. A law enforcement officer acting in good faith and without
6 malice in enforcing a foreign order under this section is immune from civil or criminal liability
7 for any action arising in connection with the enforcement of the foreign domestic violence
8 protection order.

9 Section 4. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any person who intentionally provides a law enforcement officer with a copy of a foreign
12 domestic violence protection order known by that person to be false, invalid, or not in
13 compliance with the requirements of section 1 of this Act, or who, if served with such a
14 protection order, denies having been served with the protection order, is guilty of a Class 1
15 misdemeanor.

16 Section 5. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Failure to satisfy any of the requirements of section 1 of this Act is an affirmative defense to
19 any prosecution for a violation of the foreign domestic violence protection order or any process
20 filed seeking enforcement of the order in this state.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

490I0555

SENATE ENGROSSED NO. **HB 1150** - 02/18/2003

Introduced by: Representatives O'Brien and Deadrick (Thomas) and Senators Diedrich (Larry), Brown, Knudson, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the amendment and cancellation of certain
2 limited liability partnerships.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 48-7A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A statement of qualification of a limited liability partnership is amended by filing a statement
7 of amendment in the Office of the Secretary of State. The statement of amendment shall set
8 forth:

- 9 (1) The name of the limited liability partnership;
- 10 (2) The date of filing the statement of qualification of limited liability partnership; and
- 11 (3) The amendment to the statement of qualification.

12 Section 2. That chapter 48-7A be amended by adding thereto a NEW SECTION to read as
13 follows:

14 A statement of qualification of limited liability partnership shall be cancelled upon the filing
15 of a statement of cancellation of the limited liability partnership. The statement of cancellation



shall be filed in the Office of the Secretary of State and shall set forth:

- (1) The name of the limited liability partnership;
- (2) The date of filing the statement of qualification of limited liability partnership; and
- (3) The reason for filing the statement of cancellation.

Section 3. That chapter 48-7A be amended by adding thereto a NEW SECTION to read as follows:

A statement of foreign qualification of a limited liability partnership is amended by filing a statement of amendment in the Office of the Secretary of State. The statement of amendment shall set forth:

- (1) The name of the limited liability partnership;
- (2) The date of filing the statement of foreign qualification of limited liability partnership;
- and
- (3) The amendment to the statement of qualification.

Section 4. That chapter 48-7A be amended by adding thereto a NEW SECTION to read as follows:

A statement of foreign qualification of limited liability partnership shall be cancelled by filing a statement of cancellation. The statement of cancellation shall be filed in the Office of the Secretary of State and shall set forth:

- (1) The name of the limited liability partnership;
- (2) The date of filing the statement of foreign qualification of limited liability partnership;
- and
- (3) The reason for filing the statement of cancellation.

Section 5. That § 48-7A-1208 be amended to read as follows:

48-7A-1208. The provisions of § 1-8-10 notwithstanding, the fee for filing the statements

1 and reports provided for in the following sections with the secretary of state is as follows:

- 2 (1) Section 48-7A-303, Statement of Authority, ~~ninety~~ one hundred dollars;
- 3 (2) Section 48-7A-304, Statement of Denial, ten dollars;
- 4 (3) Section 48-7A-704, Statement of Dissociation, ten dollars;
- 5 (4) Section 48-7A-805, Statement of Dissolution, ten dollars;
- 6 (5) Section 48-7A-907, Statement of Merger, ~~ten~~ fifty dollars;
- 7 (6) Section 48-7A-1001, Statement of Qualification, ~~ninety~~ one hundred dollars;
- 8 (7) Section 48-7A-1003, Annual Report, ~~twenty-five~~ thirty dollars; and
- 9 (8) Section 1 of this Act, Statement of Amendment, ten dollars;
- 10 (9) Section 2 of this Act, Statement of Cancellation, ten dollars;
- 11 (10) Section 48-7A-1102, Statement of Foreign Qualification, ~~ninety~~ one hundred dollars;
- 12 (11) Section 3 of this Act, Statement of Amendment, ten dollars; and
- 13 (12) Section 4 of this Act, Statement of Cancellation, ten dollars.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

264I0720

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1221** - 02/18/2003

Introduced by: Representatives Teupel and Madsen and Senator Apa

1 FOR AN ACT ENTITLED, An Act to revise the requirement for the classification of certain
2 structures for taxation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-6-54 be amended to read as follows:

5 10-6-54. Any new residential structure, or any addition to or renovation of an existing
6 structure, located within a redevelopment neighborhood established pursuant to § 10-6-56 which
7 new structure ~~or~~, addition, or renovation has a true and full value of ~~fifteen~~ five thousand dollars
8 or more, added to real property is specifically classified for the purpose of taxation. The structure
9 shall be located in an area defined and designated as a redevelopment neighborhood based on
10 conditions provided in § 11-7-2 or 11-7-3.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

569I0678

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1228 - 02/19/2003

Introduced by: Representatives Heineman, Christensen, McCaulley, McLaughlin, Peterson (Bill), Rave, Schafer, Solum, Thompson, and Williamson and Senators Jaspers, Dempster, Earley, Knudson, and Kooistra

1 FOR AN ACT ENTITLED, An Act to compensate school districts that have a larger enrollment
2 in the current year than during the previous year.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-13-10.1 be amended to read as follows:

5 13-13-10.1. Terms used in this chapter mean:

6 (1) "Average daily membership," the average number of resident and nonresident
7 kindergarten through twelfth grade pupils enrolled in all schools operated by the
8 school district during the previous regular school year, minus average number of
9 pupils for whom the district receives tuition, except pupils described in subdivision
10 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the
11 average number of pupils for whom the district pays tuition;

12 (1A) Nonresident students who are in the care and custody of the Department of Social
13 Services, the Unified Judicial System, the Department of Corrections, or other state
14 agencies and are attending a public school may be included in the average daily



membership of the receiving district when enrolled in the receiving district. When counting a student who meets these criteria in its general enrollment average daily membership, the receiving district may begin the enrollment on the first day of attendance. The district of residence prior to the custodial transfer may not include students who meet these criteria in its general enrollment average daily membership after the student ceases to attend school in the resident district;

(2) "Adjusted average daily membership," calculated as follows:

(a) For districts with an average daily membership of two hundred or less, multiply 1.2 times the average daily membership;

(b) For districts with an average daily membership of less than six hundred, but greater than two hundred, raise the average daily membership to the 0.8293 power and multiply the result times 2.98;

(c) For districts with an average daily membership of six hundred or more, multiply 1.0 times their average daily membership;

(3) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;

(4) "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive, is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student allocation shall be \$3,350 increased by the index factor. Each school fiscal year thereafter, the per student allocation shall be the previous fiscal year's per student allocation increased by the index factor, plus the enrollment adjustment;

(5) "Local need," the per student allocation multiplied by the adjusted average daily

1 membership;

2 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
3 applying the levies established pursuant to § 10-12-42;

4 (7) "General fund balance," the unreserved fund balance of the general fund, less general
5 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers
6 out of the general fund for the previous school fiscal year;

7 (8) "General fund balance percentage," is a school district's general fund balance divided
8 by the school district's total general fund expenditures for the previous school fiscal
9 year, the quotient expressed as a percent;

10 (9) "General fund base percentage," is the general fund balance percentage as of June 30,
11 2000. However, the general fund base percentage can never increase and can never
12 be less than twenty percent;

13 (10) "Allowable general fund balance," the fund base percentage multiplied by the district's
14 general fund expenditures in the previous school fiscal year;

15 (11) "Imputed interest rate," the average prime rate for the preceding fiscal year minus 2.5
16 percentage points;

17 (12) "General fund exclusions," revenue a school district has received from the imposition
18 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received
19 from gifts, contributions, grants, or donations; revenue a school district has received
20 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; and any revenue in the
21 general fund set aside for a noninsurable judgment;

22 (13) "Current average daily membership," the average number of resident and nonresident
23 kindergarten through twelfth grade pupils enrolled in all schools operated by the
24 school district during the most recent reporting period, minus the average number of

pupils for whom the district receives tuition, except pupils described in subdivision (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the average number of pupils for whom the district pays tuition;

(14) "Reporting period," the period of time between the reporting deadlines by which school districts must submit certain student and enrollment data to the Department of Education and Cultural Affairs as set forth in ARSD 24:17:03:02. For the 2003-2004 school year only, the reporting period is the period of time between the first day of the school year and May 31, 2004.

Section 2. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as follows:

If a school district's current average daily membership for any reporting period is greater than its average daily membership, that school district shall receive general support foundation program funds to compensate the district for the difference between the current average daily membership and the average daily membership for that reporting period. If a school district's current average daily membership for any reporting period is less than or equal to its average daily membership, the school district shall continue to receive state funding based on its average daily membership.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

299I0749

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1251** - 02/14/2003

Introduced by: Representative Gassman and Senator Kloucek

1 FOR AN ACT ENTITLED, An Act to allow school districts to pay property insurance
2 premiums from their capital outlay funds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-16-6 be amended to read as follows:

5 13-16-6. The capital outlay fund of the school district is a fund provided by law to meet
6 expenditures which result in the acquisition or lease of or additions to real property, plant, or
7 equipment. Such an expenditure shall be for land, existing facilities, improvement of grounds,
8 construction of facilities, additions to facilities, remodeling of facilities, or for the purchase or
9 lease of equipment. It may also be used for installment or lease-purchase payments for the
10 purchase of real property, plant or equipment, which have a contracted terminal date not
11 exceeding twenty years from the date of the installment contract or lease-purchase and for the
12 payment of the principal of and interest on capital outlay certificates issued pursuant to
13 § 13-16-6.2.

14 Any purchase of one thousand dollars or less may be paid out of the general fund. The total
15 accumulated unpaid principal balances of such installment contracts and lease-purchase and the



1 outstanding principal amounts of such capital outlay certificates may not exceed three percent
2 of the taxable valuation. The school district shall provide a sufficient levy each year under the
3 provisions of § 13-16-7 to meet the annual installment contract, lease-purchase and capital outlay
4 certificate payments, including interest.

5 A school district which contracts its student transportation may expend from the capital
6 outlay fund an amount not to exceed fifteen percent of the contract amount.

7 The capital outlay fund may be used to purchase textbooks and instructional software.

8 The capital outlay fund may be used to purchase warranties on capital assets if the warranties
9 do not include supplies.

10 The capital outlay fund may be used to pay property insurance premiums.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0207

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 23** - 02/13/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to grant counties greater authority to prohibit the use of
2 fireworks during periods of extreme fire danger.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-37-19 be amended to read as follows:

5 34-37-19. Any county may, by resolution, regulate or prohibit the use of fireworks, other
6 than fountains, ground spinners, toy novelties, sparklers, and smoke items, outside the
7 boundaries of any municipality in those areas where the fire danger, as determined by use of the
8 rangeland fire index as established by rule promulgated pursuant to chapter 1-26, by the secretary
9 of agriculture ~~or his designee~~, has reached the extreme category in that county ~~for two~~
10 ~~consecutive days~~ during the period from June twentieth ~~through June twenty-seventh~~ to July
11 fifth, inclusive. During such period, the county's action is suspended if the rangeland fire index
12 falls below the very high category and shall again become effective if the rangeland fire index
13 reaches the extreme category.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

770I0290

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 29** - 01/31/2003

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct an addition
2 to the Darold "Dud" King Physical Education Center at the South Dakota School of Mines
3 and Technology and to make an appropriation therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The South Dakota Board of Regents may contract for the construction,
6 completion, finishing, equipping, and maintaining of an addition to the Darold "Dud" King
7 Physical Education Center at the South Dakota School of Mines and Technology in Rapid City,
8 including utilities, furnishings, architectural and engineering services, asbestos abatement, site
9 preparation, and the construction of sidewalks and driveways and landscaping the grounds of
10 that facility at the estimated cost of five hundred ninety thousand three hundred dollars
11 (\$590,300).

12 Section 2. Funding for the project authorized in section 1 of this Act is to be provided from
13 gifts and grants to the South Dakota School of Mines and Technology for this purpose. The
14 Board of Regents may accept any gifts for the purposes authorized by this Act, and all such
15 moneys so contributed are hereby appropriated to the Board of Regents.



1 Section 3. The design and construction of the facilities approved by this Act shall be under
2 the general supervision of the Bureau of Administration as provided in chapter 5-14.

3 Section 4. The commissioner of the Bureau of Administration and the executive director of
4 the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay
5 expenditures authorized by this Act.

6 Section 5. No general fund dollars may be used for maintenance and repair of the facility
7 authorized by this Act, nor may the facility be added to any list of projects receiving funding
8 support from the statewide maintenance and repair fund created in § 5-14-30.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

707I0332

SENATE ENGROSSED NO. **SB 41** - 02/05/2003

Introduced by: The Committee on Commerce at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to provide for the creation of a no solicitation calls list for
2 persons wishing not to receive unsolicited telephone calls, to create a telephone solicitation
3 account, and to establish certain fees and civil penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 49-31-1 be amended to read as follows:

6 49-31-1. Terms used in this chapter mean:

- 7 (1) "Addressable," enabling users to connect and communicate with a specific party easily
8 and securely on a dial-up, addressable basis;
- 9 (2) "Available," ensuring that network services are available if the user requires them,
10 even at times of peak usage; designed to be a nonblocking network, minimizing
11 network contention;
- 12 (3) "Broadband network," the broadband network extends the range of fully switched,
13 addressable, robust transport services over the fiber network which increase in
14 multiples of OC-1 (51.84 Mbps), including OC-3 (155.52 Mbps) and OC-12 (622.08
15 Mbps);



- 1 (4) "Centron and centron-like services," services which provide custom switching features
2 which include distributive dial tone, select number screening, toll restriction and
3 screening, nonattendant busy out, nonattend and call transfer, and select trunk hunting
4 and screening;
- 5 (5) "Commission," the Public Utilities Commission;
- 6 (6) "Common carrier," anyone who offers telecommunications services to the public;
- 7 (7) "Eligible telecommunications carrier," a local exchange carrier designated by the
8 commission pursuant to 47 U.S.C. § 214(e) as of January 1, 1998, as eligible to
9 receive universal service support funding;
- 10 (8) "Feature rich," providing the specific features and functionality required by users'
11 voice, data, video, graphics, imaging, and multimedia applications; functionally
12 beyond mere transport;
- 13 (8A) "Financial institution," any financial institution as defined in 15 U.S.C. § 6827 as of
14 January 1, 2003, including any financial institution affiliate that controls, is controlled
15 by, or is under common control with the financial institution;
- 16 (9) "Incumbent local exchange carrier," a local exchange carrier, including successors and
17 assigns, which was providing local exchange service within a defined service area in
18 this state on or before February 8, 1996;
- 19 (10) "Interexchange telecommunications service," telecommunications service between
20 points in two or more exchanges;
- 21 (11) "LATA," a local access and transport area;
- 22 (12) "Local exchange area," ~~a~~ any geographic area established by a local exchange carrier
23 as filed with or approved by the commission for the administration of local
24 telecommunications service which may consist of one or more central offices or wire

1 centers together with associated facilities used in furnishing telecommunications
2 service in that area;

3 (13) "Local exchange service," the access to and transmission of two-way switched
4 telecommunications service within a local exchange area;

5 (14) "Narrowband network," a fully switched digital network covering the transport range
6 from 0 to 144,000 bits per second (144 Kbps), offering two 64 Kbps information B
7 (Bearer) channels and a 16 Kbps signaling D (Delta) channel;

8 (15) "New products and services," any new product or service introduced after July 1,
9 1988, which is not functionally required to provide local exchange service.
10 Repackaging of any product or service which is fully competitive with any service
11 regulated as emerging competitive or noncompetitive is not considered a new product
12 or service;

13 (16) "Optional service," a any limited or discretionary service offered by a
14 telecommunications company which is not functionally required for the provision of
15 noncompetitive services and which the customer has the option to purchase;

16 (17) "Private," ensuring confidentiality and integrity of network transport of messages
17 without dependency on specialized customer premise security devices;

18 (18) "Rate of return regulation," the procedure used by the commission to approve the
19 charge for a service which gives due consideration to the public need for adequate,
20 efficient, and reasonable service and to the need of the public utility for revenues
21 sufficient to enable it to meet its total current cost of furnishing such service, including
22 taxes and interest, and including adequate provision for depreciation of its utility
23 property used and necessary in rendering service to the public, and to earn a fair and
24 reasonable return upon the value of its property;

- 1 (19) "Register," a list of names and telephone numbers of residential telephone subscribers
2 who have properly enrolled to prevent unsolicited telephone calls;
- 3 (20) "Residential telephone subscriber," any person residing in the state who has residential
4 telephone service, including cellular service, personal communications service, and
5 wireless local loop service, primarily used for personal use;
- 6 (21) "Robust," easily and economically sustaining the rigors of growth and extensive public
7 use;
- 8 ~~(20)~~(22) "Rural telephone company," a any local exchange company as defined in 47
9 U.S.C. § 153(37) as of January 1, 1998;
- 10 ~~(21)~~(23) "Secure," physically precluding unwanted access to network and information;
- 11 ~~(22)~~(24) "Service area," a geographic area established by the commission for the
12 purpose of determining universal service obligations and support mechanisms.
13 For a rural telephone company, the service area is the company's study area or
14 any other area designated jointly by the commission and the Federal
15 Communications Commission pursuant to 47 U.S.C. § 214(e)(5) as of
16 January 1, 1998;
- 17 ~~(23)~~(25) "Standard," supporting universal interfaces and networking standards and
18 protocols of generally accepted standards setting bodies;
- 19 ~~(24)~~(26) "Switched," providing circuit, packet, or channel type switching, each suited
20 to specific application requirements;
- 21 ~~(25)~~(27) "Switched access," ~~an~~ any exchange access service purchased for the
22 origination and termination of interexchange telecommunications services
23 which includes central office switching and signaling, local loop facility, or
24 local transport;

1 ~~(26)~~(28) "Telecommunications company," any person or municipal corporation owning,
2 operating, reselling, managing, or controlling in whole or in part, any
3 telecommunications line, system, or exchange in this state, directly or
4 indirectly, for public use. For purposes of this definition the term, for public
5 use, means for the use of the public in general or for a specific segment of the
6 public, or which connects to the public in general or for a specific segment of
7 the public, or which connects to the public switched network for access to any
8 telecommunications service;

9 ~~(27)~~(29) "Telecommunications service," the transmission of signs, signals, writings,
10 images, sounds, messages, data, or other information of any nature by wire,
11 radio, lightwaves, electromagnetic means, or other similar means. It does not
12 include the provision of terminal equipment used to originate or terminate such
13 service, broadcast transmissions by radio, television, and satellite stations
14 regulated by the Federal Communications Commission and one-way cable
15 television service;

16 (30) "Telephone solicitation call," any call made to a South Dakota consumer by a
17 telephone solicitor, originating from South Dakota or elsewhere, for the purpose of
18 soliciting a sale of any consumer goods or services to the person called, for the
19 purpose of soliciting an extension of credit for consumer goods or services to the
20 person called, or for the purpose of obtaining information that may be used for the
21 direct solicitation of a sale of consumer goods or services to the person called or an
22 extension of credit for such purposes;

23 (31) "Telephone solicitor," any person or organization who individually or through
24 salespersons, makes or causes to be made a telephone solicitation call. This term does

1 not include any not-for-profit or charitable organization exempt from federal income
2 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 as of
3 January 1, 2003, which makes telephone calls solely to solicit a charitable donation;

4 (32) "Unsolicited telephone call," any telephone solicitation call other than a call made:

5 (a) In response to an express request of the person called;

6 (b) Primarily in connection with an existing debt or contract, payment or
7 performance of which has not been completed at the time of such call;

8 (c) To any person with whom the telephone solicitor, or any business or financial
9 institution on whose behalf the telephone call is being made has an established
10 business relationship or a business relationship that existed within the
11 immediately preceding twelve months; or

12 (d) To any person for the purpose of obtaining information and establishing a date
13 and time for an appointment with the telephone solicitor which will take place
14 at the solicitor's place of business or the consumer's home and the call is not
15 made by an automated telephone dialing system. For purposes of this
16 subsection, an automated telephone dialing system is any automatic terminal
17 equipment that stores or produces numbers to be called randomly or
18 sequentially;

19 ~~(28)~~(33) "Wideband network," the wideband network extends the range of fully
20 switched, digital, addressable information transport from the 144 Kbps to the
21 DS3 rate of 44.736 Mbps, including the DS1 and DS2 rates of 1.544 Mbps and
22 6.312 Mbps, respectively.

23 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 Any telephone solicitor who makes unsolicited telephone calls shall institute procedures that
2 comply with the provisions of this Act for obtaining a list of persons who do not wish to receive
3 unsolicited telephone calls made by or on behalf of the telephone solicitor. No telephone solicitor
4 who makes unsolicited telephone calls may call any number listed on the register. The
5 commission may promulgate rules, pursuant to chapter 1-26, concerning procedures and
6 requirements regarding the implementation of a register, setting of fees for purchase of the
7 register, form of the application, requirements for acquiring a copy of the register, requirements
8 for enrollment on and removal from the register, procedures for maintaining a register, setting
9 of fees to enroll or renew enrollment on the register, procedures for operating the register,
10 standards concerning the use of the register, and application of the civil fines.

11 Section 3. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The commission shall maintain a register of names and telephone numbers of each South
14 Dakota residential telephone subscriber who has elected not to receive unsolicited telephone
15 calls.

16 Section 4. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential
19 telephone subscribers shall obtain a copy of the register from the commission. The register shall
20 be updated not more often than quarterly. Each telephone solicitor shall submit an application
21 to the commission to obtain a copy of the register. Any telephone solicitor desiring to make an
22 unsolicited telephone call shall update his or her copy of the register within thirty days after the
23 receipt of the register.

24 Section 5. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 There is hereby established in the state treasury, the telephone solicitation account. Unless
3 otherwise provided by law, this fund shall consist of all fees and fines imposed pursuant to this
4 Act designated for deposit in the fund. The fund shall be maintained separately and administered
5 by the commission to implement and administer provisions of this Act. Any interest earned on
6 money in the fund shall be deposited in the fund. Expenditures from the fund shall be budgeted
7 through the normal budget process. Unexpended funds and interest shall remain in the fund until
8 appropriated by the Legislature. Any expenditure from the fund shall be disbursed on warrants
9 drawn by the state auditor and shall be supported by vouchers approved by the commission.

10 Section 6. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential
13 telephone subscribers shall pay to the commission an annual fee of not more than five hundred
14 dollars. Fees collected under this section shall be credited to the telephone solicitation account.

15 Section 7. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The commission shall establish or provide for the operation of a register. The register may
18 be operated by the commission or by another entity under contract with the commission. A
19 residential telephone subscriber may enroll on the register in accordance with procedures
20 prescribed by the commission. A subscriber shall pay to the commission a fee, set pursuant to
21 section 2 of this Act, of not more than five dollars to be listed on the register. Fees collected
22 under this section shall be credited to the telephone solicitation account established in section 5
23 of this Act.

24 Section 8. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Notwithstanding the provisions of chapter 49-1A, the commission may use amounts
3 deposited in the gross receipts tax fund to implement this Act. All funds used shall be returned
4 to the gross receipts tax fund within three years of implementation of the register.

5 Section 9. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any telecommunications company that provides local exchange service shall inform its
8 customers of the provisions of this Act by publication of the notice in the consumer pages of its
9 telephone directories.

10 Section 10. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any person who violates this Act or any rules promulgated pursuant to this Act is subject
13 to a civil penalty to be imposed by the commission, after notice and opportunity for hearing. The
14 commission may impose a civil fine of not more than five thousand dollars for each offense. In
15 determining the amount of the penalty upon finding a violation, or the amount of a compromise
16 settlement, the commission shall consider the appropriateness of the penalty to the size of the
17 business of the person charged, prior offenses and compliance history, and the good faith of the
18 person charged in attempting to achieve compliance. Any telephone solicitation made to a person
19 whose name first appears on the register is not a violation of this Act if the solicitation is made
20 within thirty days of the receipt of the register. Any penalty collected pursuant to this section
21 shall be credited to the telephone solicitation account established pursuant to section 5 of this
22 Act.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0554

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 80** - 01/31/2003

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the Richard Hagen-Minerva Harvey memorial
2 scholarship program and to make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Pursuant to the donation and intent of Minerva I. Harvey, deceased August 25,
5 1999, as expressed by Article 2 of her Last Will and Testament and presented for probate in the
6 State of New Jersey, Gloucester County Surrogate's Court, there is hereby established within the
7 Department of Education and Cultural Affairs the Richard Hagen-Minerva Harvey memorial
8 scholarship program.

9 Section 2. The Richard Hagen-Minerva Harvey memorial scholarship program shall be
10 administered by a five-member board named the Richard Hagen-Minerva Harvey Memorial
11 Scholarship Board which is hereby established. The members shall be appointed by the Governor
12 for a term of five years, except that the initial appointments shall be for periods of one, two,
13 three, four, and five years. The Governor shall appoint one member as the temporary chair of the
14 board. The board shall elect officers at its first meeting. The board shall meet no more than four
15 times a year, not including telephonic conferences, as may be necessary to complete its



responsibilities as prescribed by this Act. No more than three members of the board may be of the same political party. At least two members of the board shall be enrolled members of a tribe located in South Dakota. A majority of the board shall be present either personally or telephonically to constitute a quorum.

Section 3. In order to be eligible for a Richard Hagen-Minerva Harvey memorial scholarship award, a student shall:

- (1) Have graduated from a South Dakota accredited high school;
- (2) Have met high school graduation requirements established by rules promulgated pursuant to chapter 1-26 by the Department of Education and Cultural Affairs;
- (3) Attend a public or nonpublic accredited university, college, or technical institute located in South Dakota;
- (4) Apply for a Richard Hagen-Minerva Harvey memorial scholarship within one year after graduating from high school or within one year of the student's release from active duty with an active component of the armed forces if the release is within five years of the student's graduation from high school; and
- (5) Be an enrolled member of a tribe whose reservation is located in whole or part in South Dakota.

Section 4. Scholarship award payments shall be made to the institution at the beginning of the fall or spring semester on behalf of the eligible student who has received a Richard Hagen-Minerva Harvey memorial scholarship. The amount of the award is as follows:

- (1) Not less than one thousand dollars for the first year of attendance;
- (2) Not less than one thousand dollars for the second year of attendance;
- (3) Not less than one thousand five hundred dollars for the third year of attendance; and
- (4) Not less than two thousand five hundred dollars for the fourth year of attendance.

Section 5. The board may award no more than seven scholarships per year.

Section 6. In order to maintain eligibility, a student who has been awarded a Richard Hagen-Minerva Harvey memorial scholarship shall:

- (1) Maintain a cumulative 2.5 grade point average on a 4.0 grade point scale;
- (2) Be continuously enrolled for the fall and spring semesters in a public or nonpublic accredited university, college, or technical institution; and
- (3) Complete the equivalent of at least fourteen credit hours of instruction per semester.

Section 7. If factors beyond the control of a student who has been awarded a Richard Hagen-Minerva Harvey memorial scholarship prevent the student from meeting the requirements in section 6 of this Act, the board may temporarily waive the requirements of section 6 of this Act as eligibility criteria.

Section 8. The Department of Education and Cultural Affairs shall provide necessary support services to the board created by this Act.

Section 9. There is hereby continuously appropriated to the Department of Education and Cultural Affairs any other fund expenditure authority necessary for the department to accept and expend money the department may receive from any source for the purpose for providing a Richard Hagen-Minerva Harvey memorial scholarship.

Section 10. The secretary of the Department of Education and Cultural Affairs shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 11. The Department of Education and Cultural Affairs may promulgate rules pursuant to this Act and chapter 1-26 to accept applications for a Richard Hagen-Minerva Harvey memorial scholarship, establish criteria to award a Richard Hagen-Minerva Harvey memorial scholarship, and to maintain eligibility for a Richard Hagen-Minerva Harvey memorial scholarship.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

444I0525

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 145** - 02/06/2003

Introduced by: Senators Sutton (Duane), Dennert, Duxbury, Moore, Sutton (Dan), and Symens and Representatives Burg, Elliott, Frost, Hundstad, and Novstrup

1 FOR AN ACT ENTITLED, An Act to revise certain Central Plains Water Development District
2 boundaries.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 46A-3A-2 be amended to read as follows:

5 46A-3A-2. The Central Plains Water Development District is hereby established. The Central
6 Plains Water Development District includes all of ~~Hand County, Franklin, Union, Banner, Spring~~
7 ~~Lake, Illinois, Eden, Valley, Douglas, Washington, Loomis, Lincoln, William Hamilton,~~
8 ~~Holabird, Highmore, and Bramhall townships in Hyde County; Peoria, Mentor, Bryon, Logan,~~
9 ~~Blunt, Bretton, Harrold, Buckeye, Dry Run, and Canning townships in Hughes County; Lake and~~
10 ~~Elk townships in Sully County; Enterprise, Freedom, Emerson, Fairview, Saratoga, Pulaski,~~
11 ~~Myron, Devoe, Wesley, Bryant, Tamworth, Lafoon, Centerville, Pioneer, Orient, Arcade,~~
12 ~~Hillsdale, and Zell townships in Faulk County; Exline, Redfield, Lodi, Frankfort, Lake, Tulare,~~
13 ~~Crandon, Lincoln, Buffalo, Garfield, Belmont, and Cornwall townships in Spink County; Nance,~~
14 ~~Bonilla, Altoona, Pleasant View, Whiteside, Allen, Broadland, Fairfield, Iowa, Wessington,~~
15 ~~Wolsey, Hartland, Theresa, Valley, Sand Creek, Vernon, Dearborn, Clyde, Custer, Burr Oak,~~



- 1 ~~Kellogg, Carlyle, Grant, and Clifton townships in Beadle County; Faulk, Hand, Hughes, Hyde,~~
- 2 ~~Potter, and Sully counties~~ and all municipalities that lie wholly or partially within the included
- 3 area or that are contiguous to the included area.